

Message Text

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ORIGIN IO-10

INFO OCT-01 EUR-12 ISO-00 L-02 JUSE-00 FBIE-00 SCA-01

SAJ-01 INR-07 SS-15 /049 R

DRAFTED BY IO/UNP:LRHAGE:BKM

APPROVED BY IO/UNP:JABAKER

EUR/SOV:RCOMBS (DRAFT)

L/UNA:ASURENA (DRAFT)

JUSTICE:JPERKINS (SUBS)

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R 072019Z APR 75

FM SECSTATE WASHDC

TO USMISSION USUN NEW YORK

INFO AMCONSUL LENINGRAD

AMEMBASSY MOSCOW

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E.O. 11652: N/A

TAGS: PFOR, ASEC, US, UR, UN

SUBJECT: COURT APPEARANCE OF SMUN RECEPTIONIST

1. IN INTERVIEW WITH FBI AGENTS IN FEBRUARY REGARDING ASSAULT IN SMUN BUILDING BY EDWARD CLINE ON MIKHAIL BURLAKOV, SMUN RECEPTIONIST, YURY J. SHCHERBAKOV, FIRST SECRETARY, SMUN MADE CLEAR THAT HE WANTED THIS MATTER TO BE FEDERALLY PROSECUTED. HOWEVER, HE ADVISED THE FBI AGENTS THAT BURLAKOV WOULD NOT BE PERMITTED TO TESTIFY IN COURT.

2. DEPT OF JUSTICE HAS REQUESTED DEPT APPROACH SOVIETS TO SEEK COURT APPEARANCE OF BURLAKOV SINCE HE WAS THE VICTIM AND EYE WITNESS IN THIS ASSAULT CASE.

3. JUSTICE AGAIN POINTS OUT, AS IT HAS IN THE PAST

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(DEPT 250202 DATED DECEMBER 26, 1973 - KOSENKOVA ASSAULT

CASE) THAT PROSECUTION WITHOUT VICTIM'S TESTIMONY IS UNHEARD OF AND IN PRESENT CASE BURLAKOV'S ABSENCE WOULD ALLOW ACCUSED TO FABRICATE OWN STORY ABOUT INCIDENT.

4. DEPT WILL DISCUSS PROBLEM WITH SOVIET EMBASSY AND URGE THAT BURLAKOV BE AUTHORIZED TO TESTIFY. MISSION REQUESTED TO RAISE MATTER WITH SMUN.

5. MISSION MAY DRAW UPON FOLLOWING TALKING POINTS:

A. JUSTICE DEPT'S PROPOSAL TO PROSECUTE CLINE IS SIGN OF USG'S CONTINUING EFFORT TO ASSURE SAFETY OF SOVIET PERSONNEL BY BRINGING TO JUSTICE THOSE WHO HAVE HARASSED AND ASSAULTED SOVIET OFFICIALS.

B. ALTHOUGH OUR LEGAL SYSTEM DOES NOT REQUIRE EVIDENCE FROM VICTIM, UNDER US TRIAL PROCEDURES BURDEN OF PROOF RESTS WITH PROSECUTION AND CASE WOULD NOT STAND CHANCE IN COURT UNLESS BURLAKOV TESTIFIES.

C. US ATTORNEYS WOULD RESIST VIGOROUSLY ANY EFFORT BY DEFENSE TO CROSS EXAMINE BURLAKOV ON ISSUES OUTSIDE SCOPE OF FACTS OF INCIDENT OR TO EMBARRASS BURLAKOV OR USSR AND WOULD BE GLAD TO DISCUSS ANY OTHER ASPECTS OF CASE WITH SOVIETS. SMUN MAY BE REMINDED HOW EFFECTIVELY THIS PROBLEM WAS HANDLED IN KOSENKOVA CASE. INGERSOLL

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CRIMES, DIPLOMATIC PERSONNEL HARASSMENT, POLICE PROTECTION RIGHTS, TRIALS, COURTS
Control Number: n/a
Copy: SINGLE
Draft Date: 07 APR 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE078323
Document Source: CORE
Document Unique ID: 00
Drafter: LRHAGE:BKM
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750121-0363
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750474/aaaacqct.tel
Line Count: 87
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 12 JUN 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 JUN 2003 by izenbei0>; APPROVED <30 OCT 2003 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COURT APPEARANCE OF SMUN RECEPTIONIST
TAGS: PFOR, ASEC, US, UR, UN, (CLINE, EDWARD), (BURLAKOV, MIKHAIL)
To: USUN NEW YORK
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006